

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

WILLIAM B. BARCUS, *et al.*,

Plaintiff,

v.

MERCEDES-BENZ USA, LLC,

Defendant.

Case No. 2:21-cv-00546-TLN-CKD

AMENDED ORDER (1) SETTING  
SETTLEMENT CONFERENCE,  
(2) REQUIRING PERSONAL ATTENDANCE  
BY CERTAIN INDIVIDUALS, (3)  
REQUIRING SETTLEMENT CONFERENCE  
STATEMENT MEETING CERTAIN  
PARAMETERS, AND (4) SCHEDULING  
PRE-CONFERENCE DISCUSSION

Magistrate Judge Jeremy D. Peterson will hold a settlement conference by Zoom on December 14, 2022, at 10:00 a.m. The Zoom settlement conference invitation will be distributed the week prior. The court expects that the parties will proceed with the settlement conference in good faith and attempt to resolve all or part of the case. If any party believes that the settlement conference will not be productive, that party shall so inform the court as far in advance of the settlement conference as possible. Unless otherwise specifically authorized by the court in advance of the settlement conference, the following individuals must participate in the settlement conference: (1) all of the attorney(s) who will try the case; (2) the parties; and (3) individuals with full authority to negotiate and settle the case, on any terms.

No later than November 30, 2022, each party must submit to Judge Peterson's chambers at [jdporders@caed.uscourts.gov](mailto:jdporders@caed.uscourts.gov) a confidential settlement conference statement. These statements should neither be filed on the docket nor served on any other party. The statements should be

marked “CONFIDENTIAL” and should state the date and time of the conference. While brevity is appreciated, each statement must include:

- (1) a brief recitation of the facts;
- (2) a discussion of the strengths and weaknesses of the case, from your party’s perspective;
- (3) an itemized estimate of your party’s expected costs for further discovery, pretrial, and trial matters, in specific dollar terms;
- (4) your best estimate of the probability that plaintiff will obtain a finding of liability should this case proceed to trial, in percentage terms;
- (5) should this case proceed to trial and defendant be found liable, please provide the following, in specific dollar terms:
  - (a) a realistic high-end recovery estimate (*i.e.*, realistic best- or worst-case scenario)
  - (b) a realistic low-end recovery estimate (*i.e.*, realistic worst- or best-case scenario), and
  - (c) a best estimate of the most likely outcome;
- (6) a history of settlement discussions, including:
  - (a) a statement of your expectations for settlement discussions;
  - (b) a listing of any past and present settlement offers from any party (including all terms);
  - (c) whether your party would consider making the opening offer or demand, and what that offer might be<sup>1</sup>;
- (7) a list of the individuals who will be participating in the settlement conference on your party’s behalf, including each participant’s name and, if appropriate, title;
- (8) identification of any related cases or of any other cases that the parties might wish to discuss at this settlement conference; and

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<sup>1</sup> Please note that Judge Peterson will consider this response, among others, in evaluating whether proceeding with a settlement conference appears worthwhile.

(9) a completed worksheet (blank version attached) highlighting your responses to certain of the above questions.

In addition, a joint statement quoting the specific proposed language for the Settlement Agreement and Affidavit including each party's contentions with respect thereto.

Judge Peterson will hold a short, pre-settlement conference telephone discussion on December 7, 2022 at 2:00 p.m. (dial-in number: 1-888-557-8511; passcode: 1273468). Only the lead attorney from each side<sup>2</sup> should participate. At Judge Peterson's discretion, the joint telephonic discussion may be followed by private telephonic discussions between the judge and each party.

In accordance with the above, it is hereby ORDERED that:

1. A pre-settlement conference is set before Magistrate Judge Peterson on December 7, 2022 at 2:00 p.m.

2. A settlement conference is set before Magistrate Judge Peterson on December 14, 2022, at 10:00 a.m.

3. No later than November 30, 2022, each party must submit a confidential settlement conference statement, as described above, to Magistrate Judge Peterson.

Dated: September 21, 2022

  
JEREMY D. PETERSON  
UNITED STATES MAGISTRATE JUDGE

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<sup>2</sup> The court expects that the attorneys participating in the telephone discussion will also participate in the settlement conference.

## Pre-Settlement Worksheet

	<i>Please fill in each value below</i>
<i>Additional cost to your party expected for . . . discovery</i>	\$
<i>. . . pretrial</i>	\$
<i>. . . trial</i>	\$
<i>Estimated probability of liability finding</i>	%
<i>Realistic high-end estimate of recovery by P</i>	\$
<i>Realistic low-end estimate of recovery by P</i>	\$
<i>Best estimate of recovery by P</i>	\$
<i>Last offer/demand (if any) previously made by your party</i>	\$
<i>Last offer/demand (if any) previously made by opposing party</i>	\$
<i>Proposed next offer/demand by your party</i>	\$